

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOANNA CASTRO,
PLAINTIFF

V.

ALBERT SALINAS,
DEFENDANT

§
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§
§
§
§
§

CIVIL NO. 5:18-CV-00312-DAE

AFFIDAVIT OF RENE VALENCIANO

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

Before me, the undersigned notary, on this day personally appeared Rene Valenciano, a person whose identity is known to me. After being by me duly cautioned to tell the truth, subject to the penalties for perjury, he did affirm and testify as follows:

“My name is Rene Valenciano. I am over the age of eighteen (18) years, am of sound mind, and am fully capable of making this affidavit. I am personally familiar with facts recited below, which are true and correct.

Currently, I hold the position of Chief of Police for the City of Olmos Park (“City”) Police Department. I have held the position of Chief of Police since July 17, 2014. Prior to that, I was appointed Interim Police Chief on or about March 7, 2014. I have personal knowledge of the lawsuit referenced above filed against the City based upon the incident in which Officer Salinas was involved as a City of Olmos Park Police Officer on February 20, 2018.

I have reviewed the Incident Reports attached herein as **Exhibits C1 through C6** and discussed the matter personally with Officer Salinas, involved in the incident at issue, and Officers Brandon Schumacher and Hector Ruiz who were present and observed the incidents occurring on February 20, 2018. I also reviewed the bodycam videos worn by Officer Salinas.

In my capacity as Chief of Police, I serve as a Custodian of Records for the City of Olmos Park Police Department. Of those records, attached hereto is a true and correct copy of fourteen (14) pages of documents and a compact disc of a digital recording reflecting:

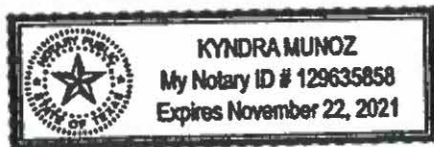
Exhibit C1: Video recording entitled, "Ferguson Armed @ Store" which was taken at the Shell station at 4302 McCullough Avenue, Olmos Park, Bexar County, Texas regarding incidents occurring on February 20, 2018;
Exhibit C2: Video recording entitled, "Ferguson--Miller In-Store" which was taken at the Shell station at 4302 McCullough Avenue, Olmos Park, Bexar County, Texas regarding incidents occurring on February 20, 2018;
Exhibit C3: Supplemental Incident Report authored by Officer Brandon Schumacher regarding incidents occurring on February 20, 2018;
Exhibit C4: Supplemental Incident Report authored by Investigator Hector Ruiz regarding incidents occurring on February 20, 2018;
Exhibit C5: Warrant No. 047202 for Joanna Castro, authored by Investigator Hector Ruiz and attaching an Affidavit by Officer Alejandro Salinas, regarding incidents occurring on February 20, 2018; and
Exhibit C6: Witness Statement of Aamir Khan, Manager of the Shell station at 4302 McCullough Avenue, Olmos Park, Bexar County, Texas regarding incidents occurring on February 20, 2018.

The attached documents and digital footage from the dashcams are kept by my department in the regular course of business, and it was in the regular course of business and activity of the City of Olmos Park for an employee of City, with knowledge of the act and contains information transmitted by the person with knowledge of the matters of the event, condition, opinion, recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time of the occurrence of the matters set forth in the documents and was made by the regularly conducted activity as a usual practice for the City. The records attached are exact duplicates of the originals with the exception of the digital footage which has been edited to limit the footage to the incident depicted, which is true and correct.

Further Affiant sayeth not.

RENE VALENCIANO
POLICE CHIEF

SUBSCRIBED AND SWORN TO BEFORE ME on this 4th day of June, 2018, to certify which witness my hand and official seal.



NOTARY PUBLIC, STATE OF TEXAS

THE VIDEO AND AUDIO RECORDINGS WILL BE MAILED UNDER SEPARATE COVER



Supplemental Report #1

Olmos Park Police Department						Case No. 18-01785	
Report Purpose OFFENSE/SUPPLEMENT			Reported On Date Tue 02/20/2018 21:11		Incident Classification Disorderly Conduct		attempted <input type="checkbox"/>
Dispatch Time 21:11		Arrived Time 21:27		Cleared Time 21:38		Report Date 02/21/2018	Report Time 00:21
Primary Charge 42.01(a)(7)(B) DISORDERLY CONDUCT DISCHARGE/DISPLAY FIREARM						UCR/NIBRS Code	
Additional Charges 30.05(a) CRIMINAL TRESPASS						Estimated Total Property Loss	
Suspects							
Code AP-1	Name: Last, First, Middle Miller, Jack Edward			Sex M	Race/Ethnicity W-White/Not Hispanic		Date of Birth/Age 06/28/1972 45
Confidentiality <input type="checkbox"/>	Address: Street, City, State, ZIP 4839 Dick Gordon, San Antonio, TX 78219						Phone
Place of Employment / School/ Address				Occupation unk		Employer Phone	
Charge 42.01(a)(7)(B) DISORDERLY CONDUCT DISCHARGE/DISPLAY FIREARM							
Charge Level Misdemeanor - Class B		UCR Code		NIBRS Code 90C		NCIC Code 5311	
Warrant #		Court		Judge		Bail	
Charge 30.05(a) CRIMINAL TRESPASS							
Charge Level Misdemeanor - Class B		UCR Code		NIBRS Code 90J		NCIC Code 5707	
Warrant #		Court		Judge		Bail	
Citation #		Date		Time		Booking # 18-01785	
						Date 02/20/2018	
						Time 21:11	
Arrest Location 4300 McCullough AVE, Olmos Park, TX 78212				Private Person Arrest <input type="checkbox"/> Yes <input type="checkbox"/> No		Statement <input type="checkbox"/> Oral <input type="checkbox"/> Written	
				Charges <input type="checkbox"/> Admitted <input type="checkbox"/> Denied		Suspect Armed With Rifle	
Juv. Parent/Gdn. Notified <input type="checkbox"/> Yes <input type="checkbox"/> No	Name/Relationship of Person Notified		Date & Time Notified		Notified By		Disposition of Juvenile/Adult
Height 5'09"	Weight 250	Build Stocky	Hair Bald	Eyes Blue	Descriptors		
Driver's License 04702507		State TX	Social Security No.		Other ID		
Victims/Witnesses/Other							
Code C-3	Name: Last, First, Middle			Sex	Race/Ethnicity		Date of Birth/Age
Confidentiality <input type="checkbox"/>	Address: Street, City, State, ZIP						Phone
Place of Employment / School/ Address				Occupation unk		Employer Phone	
Additional Phones							
Height	Weight	Build	Hair	Eyes	Descriptors		
Driver's License		State	Social Security No.		Other ID		
I.D. No./Name of Reporting Officer 24 - Schumacher, Brandon		Approval #323 - Ruiz, Hector		Date/Time 03/06/2018 13:53		Distribution CID	
RECORDS							

Supplemental Report #1

Exhibit
C3

03/06/2018 13:56:42.184

Supplemental Report #1 Continued

Page 2

Olmos Park Police Department		Incident Classification Disorderly Conduct		attempted <input type="checkbox"/>	Case No. 18-01785
Property					
Item # 2279	Status/Custodial Status/Condition Seized/Evidence/As described by owner	Qty./Cat. Qty./Cnd.Qty. 1/1/1	Units	Total Value	
Description Black Handgun with 13 rounds		Item/ Category Firearms			
Brand Taurus	Model PT111 G2	Serial Number TJX15384		Owner Assigned Number	
Caliber 9mm	Barrel Length	Action Semi		Finish Black	
Owner Miller, Jack Edward		Received From		Current Location Evidence Locker	
Property					
Item # 2280	Status/Custodial Status/Condition Seized/Evidence/As described by owner	Qty./Cat. Qty./Cnd.Qty. 1/1/1	Units	Total Value	
Description Black Rifle		Item/ Category Firearms			
Brand Stag Arms	Model Stag - 15	Serial Number 209804		Owner Assigned Number	
Caliber .556	Barrel Length	Action Semi		Finish Black	
Owner Miller, Jack Edward		Received From		Current Location Evidence Locker	
Narrative					

- On 02/20/2018 at approximately 21:11 hours dispatch advised of calls on 911 for a person with a gun in the 4300 block of McCullough. As I, Officer B. Schumacher #324 was about to get in my patrol vehicle outside the police department a vehicle drove up. The driver later identified as [REDACTED] D.O.B [REDACTED] advised me that she had called 911 for a person with a gun at the circle. When asked if she was alarmed she stated that she was especially since her child was in the vehicle. I had her write her name and phone number down and then went to the area of the call.
- As I and Officer A. Salinas #341 arrived in the area, I observed a male in grey clothing facing away from me. I activated my emergency lights and exited my patrol vehicle with me department issued patrol rifle drawn as I could see a handgun on the person's hip, and a sling across his back. I gave verbal commands for the person to put and keep his hands up. Officer Salinas then came around and the male was given a command to go to his knees. Once on his knees Officer Salinas handcuffed the male later identified as Jack Miller D.O.B 06/28/1972 (AP1). A black handgun being open carried was removed from his right hip area and unloaded of the 12 rounds in the magazine, and one in the chamber. A black rifle was also removed from Mr. Miller and when checked it had no rounds in it.
- Mr. Miller was then advised he was in violation of City Ordinance Sec. 24-211 Being in or about a public or private building in the nighttime. I placed Mr. Miller in the rear of Officer Salinas' patrol vehicle while Officer Salinas secured the weapons. Mr. Miller was then transported to the Olmos Park Police Department for Processing. Once at the Police Department Mr. Miller was placed in a holding cell. Once in the cell Mr. Miller began to complain of being dizzy, and swelling in his hands and feet from Diabetes. EMS was called to the

Supplemental Report #1 Continued

Page 3

Olmos Park Police Department	Incident Classification Disorderly Conduct	attempted <input type="checkbox"/>	Case No. 18-01785
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location and after being evaluated, he was taken to Methodist Metropolitan Quarry. While at the Police Department I took inventory of the weapons: Tag 2279. Taurus PT111 G2 Black Handgun Serial Number - TXJ15384. Tag 2280. Stag Arms Stag- 15 Black Rifle Serial Number - 209804.

4. Once Mr. Miller was checked and released from the hospital, he was brought back to the Police Department. Upon completion of all paperwork Mr. Miller was taken to 401 S. Frio central Magistrate Office for booking on the following charges:
 - a. PC 42.01 **Disorderly Conduct Display Firearm Class B**
 - b. PC. 30.05 **Criminal Trespass - Property Texas Class "B" Misdemeanor**
5. During the incident I was wearing body camera #6 and had the ICOP Pro in vehicle 908 recording.

Supplemental Report #1

Olmos Park Police Department						Case No. 18-01784	
Report Purpose Offense			Reported On Date Tue 02/20/2018 20:27		Incident Classification Trespass License Holder-		
Dispatch Time 19:52		Arrived Time 19:53		Cleared Time 20:27		Report Date 02/23/2018	
						Report Time 14:17	
Primary Charge 30.07(d) CARRY OPENLY AFTER ORAL COMMUNICATION IAT						UCR/NIBRS Code	
Suspects							
Code S-1	Name: Last, First, Middle Ferguson, Todd Delane			Sex M	Race/Ethnicity W-White/Not Hispanic		Date of Birth/Age 03/11/1963 54
Confidentiality <input type="checkbox"/>	Address: Street, City, State, ZIP 13804 Biltmore Lakes, Live Oak, TX 78233					Phone	
Place of Employment / School/ Address				Occupation unk		Employer Phone	
Additional Phones (Cell-Phone) (210) 833-2129							
Height 5'11"	Weight 250	Build Stocky	Hair Blond	Eyes Blue	Descriptors		
Driver's License 10562643		State TX	Social Security No. 437-33-6942	Other ID (BCSO SID) 1096870			
Victims/Witnesses/Other							
Code C-1	Name: Last, First, Middle Kahn, AAmir			Sex M	Race/Ethnicity U-Unknown/Not Hispanic		Date of Birth/Age 05/13/1990 27
Confidentiality <input type="checkbox"/>	Address: Street, City, State, ZIP 4302 McCullough, Olmos Park, Tx 78212					Phone	
Place of Employment / School/ Address Shell Gas Station 4302 McCullough, Olmos Prk, TX 78212				Occupation Clerk		Employer Phone (210) 930-1118	
Additional Phones (Work-) (210) 930-1118							
Height 5'11"	Weight 195	Build Normal	Hair Brown	Eyes BRO - Brown	Descriptors		
Driver's License		State	Social Security No.	Other ID (Other) TS01220150000429			
Narrative							

1. On 02/20/2018, at approximately 20:27 hours, officers with the Olmos Park police department were dispatched to 4302 N. McCullough, Shell gas station, in reference to a male subject that had entered the store with an Openly Carried handgun.
2. I arrived and contacted a male subject later identified as Jack Edward Miller. During the course of this interaction with Mr. Miller, he was issued a Criminal Trespass Warning barring him from the location of 4302 N. McCullough, Shell Gas station. Mr. Miller refused to sign or acknowledge the form and advised me to shove that form up my ass.
3. I continued with the investigation and contacted the complainant identified as Aamir Khan. Mr. Khan stated he has been an employee of the Shell for several years and had started his shift on this date at 12 noon. Mr. Khan stated he was inside the store and at approximately 20:25 hours, when a male subject with a baseball cap, black T-shirt, a goatee beard came in and was armed with a handgun that

I.D. No./Name of Reporting Officer 323 - Ruiz, Hector	Approval #323 - Ruiz, Hector	Date/Time 02/23/2018 16:22	Distribution CID
RECORDS			
DISTRIBUTION DATE BY			

Supplemental Report #1

**Exhibit
C4**

03/06/2018 12:35:57.698

Supplemental Report #1 Continued

Page 2

Olmos Park Police Department	Incident Classification Trespass License Holder-	attempted <input type="checkbox"/> Case No. 18-01784
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was visible on the subject's right hip.

4. Mr. Khan stated the handgun was clearly visible (also video surveillance available). Mr. Khan stated the store has a conspicuously displayed 30.07 sign posted at the front left entrance clearly visible to the public.
5. Mr. Kahn stated he immediately advised subject he could not be inside the store with the weapon exposed and that he had to leave. Subject covered the weapon but refused to leave and stayed to verbally argue with Mr. Kahn. After about a minute, subject exited the store, went to the outside of the front door, began to read the signs posted and then again came inside the business after he had been told to leave.
6. Mr. Kahn stated at this time he felt very nervous and afraid since subject was bigger in stature than complainant and was armed with a handgun. Subject continued to stay inside the business for approximately 2 more minutes. Subject continued to stay inside the store and then left as he was told by complainant he was on the phone with the police and also as a customer entered the store.
7. On 02/21/2018, I continued with a follow-up investigation. I contacted complainant Mr. Khan. I reviewed the video surveillance from the Shell close circuit TV equipment.
8. As I reviewed the video footage, subject was immediately identified. I have personal knowledge of the subject's identity since he was the focus of a "BOLO" from the City of Universal City Police Department. (see attached "BOLO"). Suspect identified as Todd Delane Ferguson DOB: 03/11/1963.
9. I clearly observed that the suspect was armed with a handgun on his right hip in an openly displayed manner as he enters the store, clearly violating the posted 30.07 sign.
10. Mr. Kahn stated he wanted to file charges for the offense. He signed a handwritten affidavit.

WARRANT LOG 047202

WARRANT OF ARREST

OPPD Case# 18-01785

STATE OF TEXAS)

COUNTY OF BEXAR)

WARRANT NO. _____

WHEREAS, a complaint in oath and in writing has been made before me charging that on or about the 10TH day of February 2018 A.D., Castro, Joanna did commit the offense of INTERFERENCE W/DUTIES of PUBLIC SERVANT, a Class "B" Misdemeanor (Texas Penal Code), Bexar County Offense Code 530009, contrary to the statutes, and against the peace and dignity of the State of Texas.

YOU ARE HEREBY COMMANDED to arrest Castro, Joanna and bring her before a magistrate in Bexar County, Texas to answer to said complaint.

Castro, Joanna is a White female, DOB 08/17/1973

5'03" 155 lbs Brown hair, Green eyes

Texas DL # 28307634 Texas ID#23428364

SID # 0767711

HEREIN FAIL NCT, but due service and return make this Writ as the law directs.

GIVEN UNDER my hand and seal of this court the 22nd day of March A.D. 2018.

Magistrate Bexar County Michael A. Rivas

Court _____

Recommended Bond _____

**OFFICERS RETURN**

Come to hand the _____ day of _____ A.D. 2018.

Executed this _____ day of _____ A.D. 2018.

**Exhibit
C5**

WARRANT LOG 047202

STATE OF TEXAS)

COUNTY OF BEXAR)

CASE NO. 18-01785

AFFIDAVIT OF FACT

CAME INTO me this day, Hector Ruiz, a person known to me who upon oath swears as follows:

My name is Hector Ruiz, I am a police officer with the rank of Sergeant employed by the City of Olmos Park, I am assigned to the criminal investigations division. I have participated in numerous investigations in the past that have led to the arrest and conviction of persons who have violated the laws of the State of Texas.

I am filing this affidavit in support of a request for an arrest warrant for Castro, Joanna, hereafter called "suspect", Castro, Joanna is a White female, DOB 08/17/1973; Castro, Joanna is 5'03" tall, 155 pounds, with Green eyes, and Brown hair,
Texas DL # 28307634 Texas ID# 23428364
SID# 0767711

The request for the arrest warrant is supported by the following facts:

OFFICER A. SALINAS STATEMENT OF FACTS:

- (1). On 02/10/2018 at approximately 7:52pm, Officer A. Salinas #341 arrived at Lin Marche located at 4307 Mc McCullough Ave for a man with a rifle call. He exited the marked patrol vehicle with the departmental AR-15 patrol rifle, because of the nature of this call. He observed a female, whom, during the course of this investigation, was identified as Joanna Castro, "**Suspect**", with something in her hand. The officer told "**Suspect**" several times to get back because Officers were dealing with a man with a gun.
- (2). "**Suspect**" refused the officers lawful commands while this incident was occurring and as Officer B. Schumacher #324, had Jack Edward Miller at gun point, this was the man with a rifle and hand gun. In order to get "**Suspect**" out of the vicinity of danger and for her not be interfering with Officer Salinas and Officer B. Schumacher, the officer had to physically guide "**Suspect**" back a couple of times. The "**Suspect**" came very close to the side of his handgun, that "**Suspect**" was approximately less than a foot away where "**Suspect**" could have easily reached over in an attempt to take it.
- (3). "**Suspect**" then shoved something towards the officer's face. It appeared small and dark in color, possibly a cell phone. The officer immediately pushed it away from his facial area and it fell down. He later confirmed it was a cell phone. This appeared as if the "**Suspect**" was intentionally trying to distract

WARRANT LOG 047202

distract the officer as he was performing his official duties. There was very poor lighting in that area and it could have been a weapon.

(4). Officer B. Schumacher then yelled for assistance and he left **"Suspect"** where she was in order to assist Officer B. Schumacher, who had Jack Edward Miller at gun point.

He was wearing body camera #1 and was driving patrol unit #903.

OLMOS PARK POLICE DEPARTMENT

Witness Statement

Case # 18-01785

I, AAMIR KHAN, am about to make known to HECTOR RUIZ, who has identified themselves as an Olmos Park Police Officer the following statement. I am giving this written statement voluntarily for use by police officers for whatever purposes they deem necessary and/or appropriate.

I ALSO UNDERSTAND THAT IT IS A CLASS "B" MISDEMEANOR UNDER THE TEXAS PENAL CODE, CHAPTER 37, SECTION 37.08, FALSE REPORT TO A PEACE OFFICER, TO WIT:

A person commits an offense if, with intent to deceive, he knowingly makes a false statement that is material to a criminal investigation and makes the statement to a peace officer conducting the investigation.

I AM AAMIR KHAN live in San Antonio
I Started working at Shell gas
Station at 4302 Dec 2016

on Tuesday Feb 20, 2018 at 12:00 PM
I arrived at work. every thing was normal until 9:05 PM
I saw a tall white man wearing black pants,
Black shirt, Black cap with a beard. This man
walked in my store with a small Black. gun.
(pistol) on the right side of his pants. I greeted
him and asked him if he had a badge and he
no. then I asked him to leave because he had a
visible weapon. He started arguing with me.

Person giving written statement. Aamir Khan

Date: 02-22-18, 6:58 P.M. Pg. 1 of 5

Officer taking this statement [Signature]

Badge # 322

**Exhibit
C6**

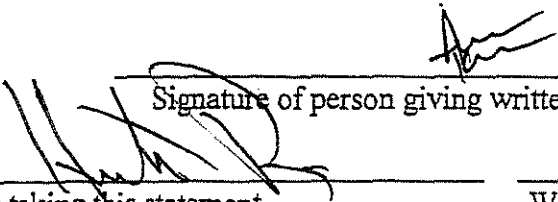
Continuation of written statement. Page No. 2 of

I told him that we do not allow (guns) weapons in the store. then he went out and stood looking at signs outside of the store and he came back again in the store and started arguing with me about the difference between section 306 and 307

He had raised his voice so much to this point I felt scared. But still I was calm because I don't want him to get mad at me and shoot me to death. then I politely asked him to leave my property. then another customer walked in and this guy walked out to the parking lot and started calling some one from his mobile phone.

At 9:11 PM I called almost PD Dispatch and the officer suggested to call 911 I did as told and dialed 911 A lady answered the phone while I was on the call with (911)

A man walked in the store. This man was wearing that looks like a nurse scrubs. I greeted him and ask how may I help you then he said my friend just walked in. then I realised that he is from the same group.


Signature of person giving written statement. Page No. 2 of 5

Officer taking this statement

Witness

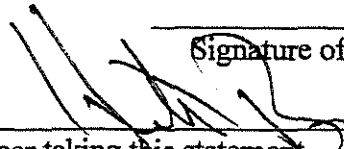
Continuation of written statement. Page No. 3 of 5

At this time I got even more scared because he was touching his gun which was concealed (visible in the video provided. to mimos PD) through out my call w/ the dispatcher this man was interrupting my call. I told this man that the police is outside and he walked out. Officer Hector. was outside and quickly took the suspect down and took the gun from him.

I stepped near the window and saw the the girl and the other guy in a car took away as they see their friend got arrested. This made me feel that these people wanted to rob the store. I've worked at several gas stations and have seen this happen before also.

Soon after, officer Hector. came inside to take my statement and he told me that there would be a no trespass order for this man.

At this time I thought everything was over but I was still scared. I felt as if

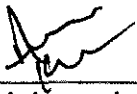

Signature of person giving written statement. Page No. 3 of 5
Officer taking this statement

Witness

Continuation of written statement. Page No. 4 of 5

I had just escaped the death. and began calling my wife and family. within a span of 10-20 minutes. I spoke with several family members when I saw the police lights in front of my store. I stepped out of my store. officer seen and Shumaker were pointing their guns at this man and were asking the man to give them his gun. I recorded this interaction. in which one can listen the fear in my voice. I felt as if I was going to have a panic attack. but I continued to record so I could have evidence. of who he was and how this made me feel. After the cops left a smooth white man walked up to my gas station and began filming my store. with a camera. I ran back into the gas station and locked the door.

Theresa (my coworker) said that she'd seen the guy who got arrested was standing right next street to my store and filming the store. I was then incredibly worried as I feel that they have all my information and they will want to come and get me because I got his folds


Signature of person giving written statement. Page No. 4 of 5
Officer taking this statement

Badge #

Continuation of written statement. Page No. 5 of

arrested I called 911 again and then the
 operator said they would send me an officer as
 soon as possible while on the call the the
 man was still wandering in front of my store.
 officer Lopes and Shomark and Selen came
 the man that was filming ran away. officer
 Lopes came in the store and asked me to close
 the store as soon as possible. I closed the store
 and I was about to leave when the officer asked
 me if I needed emergency service due
 to my mental state. By this time my friend
 had arrived to pick me up and I was still wondering
 that someone was following me. I didn't feel safe
 until I came home. I'm currently still
 scared as these individuals were
 not apprehended.

I'm grateful to Olmos PD
 for all quick response to saved
 my life.

thank you. chief and officers.

Signature of person giving written statement. Page No. 5 of 5

Officer taking this statement

Badge #